

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Reexamination of the Comparative	)	MM Docket No. 95-31
Standards for Non-Commercial	)	
Educational Applicants	)	
	)	
2 <sup>nd</sup> Further Notice of Proposed	)	
Rulemaking	)	

**COMMENTS OF SSR COMMUNICATIONS, INC. ON THE SECOND  
FURTHER NOTICE OF PROPOSED RULEMAKING FOR PROCEDURES TO  
LICENSE NON-RESERVED SPECTRUM IN WHICH APPLICANTS FOR BOTH  
COMMERCIAL AND NONCOMMERCIAL EDUCATIONAL (NCE)  
BROADCAST STATIONS HAVE AN INTEREST**

SSR Communications, Inc. (known from now as “SSR”) comes before the Commission to offer its comments in the above-mentioned proceeding.

On February 14, 2002, the Commission began seeking comments related to its Second Further Notice of Proposed Rulemaking (2nd FNPRM) on the issue of determining an equitable distribution scheme for broadcast-band spectrum allocations where interested parties include both commercial and non-commercial educational (NCE) applicants. The Commission proposed three potential solutions to the matter as well as the independent solicitation of reasonable alternatives.

**RECLASSIFICATION OF EXISTING ALLOTMENTS**

SSR does not oppose any of the “three options” put forth by the Commission in the 2<sup>nd</sup> FNPRM, but we do state that we **vehemently discourage** any scenario in which presently allocated non-reserved allotments are considered as candidates for reallocation

to serving non-commercial endeavors. In the 2<sup>nd</sup> FNPRM, the Commission proposed the following question in Paragraph 18:

**Should we establish a procedure for NCE entities to show that these vacant allotments should be reserved under the relaxed criteria ... is it fair to commercial entities to permit NCE entities at this point an additional opportunity effectively to remove a channel from the reach of a commercial proponent?**

SSR believes that if the Commission were to reclassify certain vacant non-reserved allotments for non-commercial use only, then the allocations process would lose much of its importance. A trend of reclassification after the designated comments and reply comments period would render many properly and timely filed arguments and comments as meaningless. SSR pleads the Commission to not take the allocations process down this disturbing path.

### **LIMITS ON FUTURE LICENSE TRANSFERS**

SSR also believes that the Commission should adopt a stance on what non-commercial entities are able to do with their non-reserved channels after they have maintained operations for some period of time. Specifically, SSR is concerned that a non-commercial entity could obtain a non-reserved channel for its use and then sell the non-reserved channel station to a commercial endeavor. Historically, non-reserved allotments have garnered much higher station sale and resale prices than have reserved channels for the obvious benefit of commercial message-oriented programming ability. Last week, for example, reserved-band station KXCR in El Paso, Texas sold for \$1,000,000 with Class A facilities. A week earlier, however, a non-reserved station with marginal coverage into the much smaller radio market of Flagstaff, Arizona, sold for

\$8,000,000 (KKLD Prescott Valley, AZ). Hundreds of supporting examples for this claim occur every year in Commission resources as well as independent publications.

SSR does not believe it to be in the public interest if a non-commercial entity were to receive a non-reserved construction permit from the Commission at a relatively small cost and then sell it to a commercial operation in short order for a large sum of money. We believe that curbs should be in place to prevent this scenario, much as there are rules for future sales of stations obtained from licensees using the Commission's 25% or 35% bidding credit for small businesses at auction. In this instance, licensees of stations using the bidding credit must refund a portion of their bidding credit to the Commission if they sell the station before a period of five years has passed.

SSR proposes that similar standards should apply in the case of non-commercial stations in the non-reserved band selling their license to commercial organizations. We believe that the Commission should restrict the commercial buyer to non-commercial operations for a period of not less than five years. If the non-commercial entity sells its non-reserved allotment in 2004, for example, then a commercial buyer of the station should not be able to air commercial messages until 2009.

SSR believes that the system described above or a similar proposal would discourage non-commercial entities from obtaining non-reserved spectrum just for the purpose of selling the station at a profit in short order. If such a standard is not acceptable to the Commission, then SSR requests that all non-commercial allotments in the non-reserved band be made as such permanently. The station's allotment should go into the Table of Allotments as forever reserved for non-commercial use, even if it appears in the non-reserved band.

## **CONCLUSION**

SSR requests that the Commission consider its concerns and suggestions contained within this comment. We commend the Commission in its efforts to resolve a truly polarizing issue.


Dated: April 5, 2002

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Respectfully Submitted,

SSR Communications, Inc.  
By:

A handwritten signature in black ink, reading "Matthew K. Wesolowski". The signature is written in a cursive, flowing style.

Matthew K. Wesolowski  
General Manager